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home. Half way across the street, the child noticed the horse and turned to scamper back to the sidewalk. But Judge Shaw at once pulled up his horse and, beckoning to the boy to keep on, said: "Cross over, little boy, it is your right." This trifling circumstance shows the character of the man. He was the very embodiment of reverence for the law itself, its rights and duties. When the legislature in 1843 reduced his judicial salary, he would refuse to complain; but he would not, and did not, draw the reduced salary. He waited for the unjust and unconstitutional law to be repealed later, and this was done in the next year. We, college boys, used to smile at his never failing in his speeches at Commencement dinner to refer to the absolute necessity of an "independent judiciary." But time has shown his insistence to be right and wise.

The Chief Justice's appearance on the bench was almost stern in its simplicity and dignity. The court itself seemed immortal and changeless in the many years during which Shaw, Dewey, Wilde, and Metcalf sat together. The custom of having murder trials always before a full bench, in order then and there to dispose of all legal questions arising in it, lasted until after the Civil War. Doctor Webster's trial in 1850 continued through eleven days before a full bench. The writer, then a Latin-school boy, followed it closely in his school intermissions. Attorney-General Clifford, in his blue coat, brass buttons and buff waistcoat; Dr. Webster, always wearing his black gloves, sitting in the cage; the Chief Justice and his three associates, in watchful, solemn dignity on the bench; the attentive jurors; the crowded room packed within the rail by the bar; and every other seat filled; — made a scene never to be forgotten. It was altogether suited to the temple of justice. The numerous stories about the Chief Justice's peculiarities of manner may serve for the entertainment of later generations, but to the men who tried cases before him they were mere empty talk. Shaw was the impersonation of absolute fairness. No counsel ever feared he would not have his case fairly heard, or that he would fail to get full appreciation of his points or full justice in its trial. The writer, who began practice less than two years after Chief Justice Shaw had retired, is thoroughly familiar with the views and thoughts of the men who then were leaders of the bar. He is able to speak with assurance. Their great regard and respect for the Chief Justice and their view of the way in which he performed his duties could hardly be increased. The writer never heard a single word from any of them which did not express profound reverence for the great Chief Justice. He was truly a great judge, and he is fortunate now in having so good a biographer at last, after long years of silence.

E. H. A. (1855).

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**THE ARMY AND THE LAW.** By Garrard Glenn. New York: Columbia University Press. 1918. pp. 197.

It is a little surprising that the war has not produced a greater number of books relating to the law governing the army either in its internal government or in its external relations. The ante-bellum literature is composed chiefly of books on military law, like those by General Davis, General Dudley, and Colonel Winthrop, which, with the notable exception of Colonel Winthrop's excellent treatise, are largely compilations of statutes and opinions of the Judge Advocates General; the official Manual for Courts Martial; the official Rules of Land Warfare; Major Birkhimer's well-known work on Military Government and Martial Law; and the numerous books on international law. With the exception of the books on international law this literature is largely the product of army officers. Professor Glenn's little book, written from the point

of view of a lawyer familiar with the atmosphere of the common law, and dealing chiefly with the legal relations of the army to the outside world, is a real contribution to military-legal literature. The author, writing in the midst of the great war and in a time of crisis when the issue was still doubtful, naturally wishes to give the army wide scope for its activities. He strongly indorses the point of view of the minority in *Ex parte Milligan*, 4 Wall. 2. But his attitude is not at all one-sided, as is shown in his criticism (pp. 59, 60) of *Ex parte King*, 247 Fed. 868.

The least satisfactory part of Professor Glenn's book is that which deals with military law in its narrow sense, *i. e.*, the law governing the discipline of the army. He cites (pp. 24-26) early cases and statutes on the question as to the time when draftees become subject to military law, but fails to make any reference to the 2d Article of War in which Congress has definitely settled the question. He shows (pp. 38, 39) that a court-martial has criminal jurisdiction only and that neither courts-martial nor courts of inquiry have jurisdiction to entertain a civil suit and award damages, but fails to mention boards of investigation which under the 105th Article of War have jurisdiction to assess damages. He seems (p. 40) to treat the question whether a court-martial ceases to exist after it has reported to the appointing authority, as though it depends upon whether new trials may be awarded, although nothing is better settled than that a court-martial may be reconvened for revision. (See Manual for Courts Martial, par. 352 and App. 6.) In stating (p. 60) that the 74th Article of War gives precedence, at least in time of peace, to the civil courts in cases where the civil and the military courts have concurrent jurisdiction, he ignores the important exception, contained in that article, of cases where the accused is held by the military authorities to answer, or is awaiting trial, or result of trial, or is undergoing sentence for an offense punishable under the Articles of War. In stating (pp. 30, 163) that "citizens," except spies, are not punishable under the Articles of War, he fails to mention persons relieving, corresponding with, or aiding the enemy, who by the 81st Article are also punishable under the Articles of War. In the paragraph relating to the jurisdiction of the various kinds of courts-martial, the proof-reader has made such havoc (p. 37) that one unfamiliar with the Articles of War would have some difficulty in ascertaining the author's meaning.

These defects are, however, not of the essence, and lawyers and officers will read the book with interest and profit. The book gives a very concise and, for the most part, an accurate view of the place of the army in our legal system.

AUSTIN W. SCOTT.

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THE POSITION OF FOREIGN CORPORATIONS IN AMERICAN LAW. By G. C. Henderson. Cambridge: Harvard University Press. \$1.50.

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CONTINENTAL LAW IN THE NINETEENTH CENTURY. Various. Boston: Little, Brown Company. \$5.00.

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DEVELOPMENT OF GERMAN PRIZE LAW. By C. Huberich and R. King. New York: Baker, Voorhis. [To be reviewed.]